

**REMARKS**

In the final Office Action, the Examiner rejected claims 1-3 under 35 U.S.C. § 103(a) as unpatentable over CLARK (U.S. Patent No. 5,383,112) in view of NOURI et al. (U.S. Patent No. 6,088,816), rejected claims 4-8 under 35 U.S.C. § 103(a) as unpatentable over CLARK in view of NOURI et al., and further in view of GARDNER et al. (U.S. Patent No. 5,583,995), rejected claims 10, 17, and 18 under 35 U.S.C. § 103(a) as unpatentable over CLARK in view of DAVIS et al. (U.S. Patent No. 5,576,755), rejected claims 11-14, 21-25, and 27 under 35 U.S.C. § 103(a) as unpatentable over CLARK in view DAVIS et al., and further in view of GARDNER et al., and rejected claims 15, 16, 19, and 20 under 35 U.S.C. § 103(a) as unpatentable over CLARK in view of DAVIS et al., and further in view of GARDNER et al. and NOURI et al. Applicant respectfully traverses these rejections.

In the final Office Action, the Examiner rejected claims 1-3 under 35 U.S.C. § 103(a) as allegedly unpatentable over CLARK in view of NOURI et al. Applicant respectfully traverses.

CLARK is directed to an inventory management system. In CLARK, a serving computer 15 controls the operation of a group of video players 17 in accordance with an exhibition plan or schedule (col. 4, lines 23-26). The exhibition plan includes a five-digit event code, a title, rating code, channel, starting times, dates, run time, and price for each exhibition of a performance (col. 4, lines 34-37).

NOURI et al. is directed to a fault tolerant method for obtaining and displaying, or updating the status of server components through a remote interface board and either a

local or remote client machine without intervention of the server operation system software (Abstract).

In contrast, Applicant's claim 1 recites a schedule management system arranged to receive and validate a schedule, and a content manager system arranged to monitor and control the loading of assets into a video server according to the validated schedule, where the assets include video content scheduled for staggered transmission to subscribers of the near-video-on-demand system using a plurality of channels, where the plurality of channels includes a test channel dedicated for testing a selected asset, and where the content manager includes a graphical user interface configured to allow an administrator to view the selected asset using the test channel to verify the integrity of the selected asset loaded into the video server. Applicant respectfully submits that CLARK and NOURI et al., whether taken alone or in any reasonable combination, do not disclose this combination of features.

For example, Applicant respectfully submits that CLARK and NOURI et al. do not disclose a test channel dedicated to testing a selected asset, where the asset includes video content scheduled for staggered transmission to subscribers of the near-video-on-demand system. The Examiner admitted that CLARK does not disclose these features (final Office Action, paragraph 1) and relied on lines 1-4 of the Abstract, col. 3, lines 45-60, and col. 6, lines 52-67 of NOURI et al. for allegedly disclosing these features. Applicant respectfully submits that these sections of NOURI et al. do not disclose or suggest the recited test channel.

The former section of NOURI et al. discloses "[a] fault tolerant method of obtaining and displaying, or updating the status of server components through a Remote Interface Board and either a local or remote client machine without intervention of the server operating system software." This section of NOURI et al. does not disclose or suggest a test channel dedicated to testing a selected asset.

NOURI et al. discloses that the remote access system provides a system administrator with a view of the health of the server (col. 3, lines 46-51). When the server fails, the remote access system enables the administrator to learn why the system failed, why the system was unable to boot, and to control certain functions of the server remotely (col. 3, lines 51-54). It is clear that this section of NOURI et al. also fails to disclose or suggest the recited test channel.

The latter section of NOURI et al. describes network Recovery Manager software that allows the system administrator to query the status of the server even when the server is down (col. 6, lines 52-55). This section of NOURI et al. does not disclose or suggest the recited test channel.

With respect to these sections, the Examiner alleged that the communication path that connects the administrator and the server being queried reads on the test channel. Applicant respectfully disagrees. Applicant submits that NOURI et al. does not disclose or suggest that the remote administrator device and the server are connected via a plurality of channels that include a test channel dedicated to testing a selected asset.

Since CLARK and NOURI et al. do not disclose a test channel dedicated to testing a selected asset, these documents cannot be said to disclose the content manager

system including a graphical user interface that allows an administrator to view the selected asset using the test channel to verify the integrity of the selected asset loaded into the video server, as also recited in claim 1. The Examiner relied on NOURI et al. for allegedly disclosing this feature. While NOURI et al. appears to disclose that an administrator may view status information of server components (Abstract, lines 1-4), NOURI et al. does not disclose or suggest the administrator having the capability to view a selected asset using the test channel to verify the integrity of the selected asset loaded into the video server, where the assets include video content scheduled for staggered transmission to subscribers of a near-video-on-demand system, as recited in claim 1.

For at least the foregoing reasons, Applicant respectfully submits that claim 1 is patentable over CLARK and NOURI et al., whether taken alone or in any reasonable combination. Applicant further submits that claims 2 and 3, which depend from claim 1, are patentable over CLARK and NOURI et al., whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 1.

Claims 4-8 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over CLARK in view of NOURI et al., and further in view of GARDNER et al. Applicant respectfully traverses this rejection.

GARDNER et al. is directed to a data storage and retrieval system. In GARDNER et al., the system allocates the storage of data across one or more levels of I/O devices organized in a hierarchical manner in such a way as to balance the bandwidth imposed on the I/O devices (Abstract).

Applicant submits that GARDNER et al. does not remedy the deficiencies set forth above with respect to CLARK and NOURI et al. Since claims 4-8 depend from claim 1, Applicant submits that claims 4-8 are patentable over CLARK, NOURI et al., and GARDNER et al., whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 1.

Claims 10, 17, and 18 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over CLARK in view of DAVIS et al. Applicant respectfully traverses this rejection.

DAVIS et al. is directed to a system that verifies electronic television program guide data. In DAVIS et al., the system automatically checks program listings data in a database of television program schedule listings used in an electronic program guide (Abstract).

Independent claim 10 recites, *inter alia*, a schedule distributor arranged to distribute a finalized schedule of programming events to the video server, the electronic program guide (EPG) provider system, and the business support system. Applicant submits that CLARK and DAVIS et al., whether taken alone or in any reasonable combination, do not disclose or suggest this feature.

While CLARK, to the best of Applicant's understanding, appears to disclose a finalized schedule of programming events being distributed to a video server, CLARK does not disclose a schedule distributor arranged to transfer a finalized schedule of programming events to a business support system. The Examiner appears to address this feature with respect to the rejection of claim 21 (final Office Action, paragraph 6). The

Examiner admitted that CLARK did not disclose this feature and alleged that "[i]t would have been obvious to transmit the schedule of programs to a billing support system, for the desirable purpose of accurately billing customers for services performed by the system of Clark."

To establish a *prima facie* case of obviousness, the burden is on the Examiner to explain how and why one having ordinary skill in the art would have been led to modify an applied reference and/or combine applied references to arrive at the claimed invention. In establishing the requisite motivation, it has been consistently held that the requisite motivation to support the conclusion of obviousness is not an abstract concept, but must stem from the prior art as a whole to impel one having ordinary skill in the art to modify a reference or to combine references with a reasonable expectation of successfully achieving some particular realistic objective. Nothing in the disclosure of CLARK provides the requisite motivation to support the Examiner's obviousness rationale. Applicant submits that the requisite motivation was impermissibly gleaned from Applicant's own disclosure. Therefore, the Examiner has failed to make out a *prima facie* case of obviousness.

For at least the foregoing reasons, Applicant respectfully submits that claim 10 is patentable over CLARK and DAVIS et al., whether taken alone or in any reasonable combination.

Claim 17 recites similar features to those given above with respect to claim 10. Accordingly, Applicant submits that claim 17 is patentable over CLARK and DAVIS et al., whether taken alone or in any reasonable combination, for similar reasons to those

given above with respect to claim 10. Applicant further submits that claim 18, which depends from claim 17, is patentable over CLARK and DAVIS et al. for at least the reasons given above with respect to claim 17.

Claims 11-14, 21-25, and 27 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over CLARK in view of DAVIS et al., and further in view of GARDNER et al.

Claims 11-14 depend from claim 10. Applicant respectfully submits that GARDNER et al. does not disclose a schedule distributor that distributes a finalized schedule of programming events to the video server, the electronic program guide provider system, and the business support system. As such, Applicant respectfully submits that claims 11-14 are patentable over CLARK, DAVIS et al., and GARDNER et al., whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 10.

Applicant's claim 21 includes a feature similar to that recited above with respect to claim 10. Applicant respectfully submits that CLARK, DAVIS et al., and GARDNER et al., whether taken alone or in any reasonable combination, do not disclose transmitting the modified scheduling information to a program guide system and to a business support system, as recited in claim 21.

For at least the foregoing reasons, Applicant respectfully submits that claim 21 is patentable over CLARK, DAVIS et al., and GARDNER et al., whether taken alone or in any reasonable combination. Applicant further submits that claims 22-25 and 27, which depend from claim 21, are patentable over CLARK, DAVIS et al., and GARDNER et al.,

whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 21.

Claims 15, 16, 19, and 20 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over CLARK in view of DAVIS et al., and further in view of GARDNER et al. and NOURI et al. Applicant respectfully traverses this rejection for the following reasons.

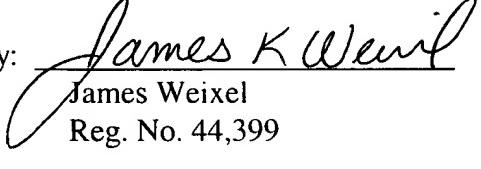
Claims 15 and 16 depend from claim 10 and claims 19 and 20 depend from claim 17. Applicant respectfully submits that NOURI et al. and GARDNER et al. do not remedy the deficiencies set forth above with respect to claims 10 and 17. Accordingly, Applicant respectfully submits that claims 15, 16, 19, and 20 are patentable over CLARK, DAVIS et al., GARDNER et al., and NOURI et al., whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claims 10 and 17.

In view of the foregoing remarks, Applicant respectfully requests the Examiner's reconsideration of this application, and the timely allowance of the pending claims.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 07-2339 and please credit any excess fees to such deposit account.

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